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DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE SERVICES
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Workforce Services Guidance –Work-Based Training – WIOA

To: Local Workforce Development Boards

Effective Date: November 30, 2017

Duration: Until Further Notice

Subject:

Statewide Work-Based Training Program Guidance

Purpose:

This guidance outlines procedures to implement and manage work-based training agreements and contracts. Programs discussed in this document include: On-the-Job Training, Registered Apprenticeships, Transitional Jobs, Incumbent Worker Training, work experience, and job shadowing. These programs will be carried out through the Consolidated Business Grant (CBG), explained on page 2. Each LWDB must develop a policy for work-based training that must address the items in Section III of this guidance.

Scope:

Adult Education (AE), American Job Center (AJC), American Job Center Access Point (AJC Access Point), Chief Local Elected Official (CLEO), Division of Workforce Services (WFS), Local Workforce Development Areas (LWDAs), Local Workforce Development Boards (LWDBs), Office of the Governor, Office of Registered Apprenticeship (RA), One-Stop Service Delivery System Operator (Operator), Regional Council (RC), Rehabilitation Services (RS), State Workforce Development Board (SWDB), Tennessee Department of Education (TDOE), Tennessee Department of Economic and Community Development (TDECD), Tennessee Department of Human Services (TDHS), Tennessee Department of Labor and Workforce Development (TDLWD), Tennessee Eligible Training Providers (TETPs), Workforce Innovation and Opportunity Act (WIOA), Workforce System Partners (Partners), Workforce System Subrecipients (Subrecipients)

References:

20 CFR 680.700(b); 20 CFR 680.840; 20 CFR 681.600(a-b); 20 CFR 681.600(c); TEGL 19-16; WIOA Section 3(23); WIOA Section 3(44); WIOA Section 122(a)(2)(A); WIOA Section 134(a)(1)(B)(i); WIOA Section 134(c)(3)(D); WIOA Section 134(c)(3)(E); WIOA Section 134(c)(3)(H)(i); WIOA Section 134(d)(2); WIOA Section 134(d)(4)(A)(i); WIOA Section 134(d)(5); WIOA Section 181(b)(2)(A); WIOA Section 181(d)(2); WIOA Section 188(a)(2); WIOA Section 188(a)(3); Federal Register Vol. 81, No. 161, Page 56117 Subpart F; Federal Register Vol. 81, No. 161, Page 56149, Subpart F; Workforce Services Guidance - Consolidated Business Grants; Workforce Services Policy – Requesting Additional WIOA Funds

Background:

WIOA provides a range of programs to support work-based training, which can be an effective strategy to provide high-quality employment opportunities to participants. Furthermore, this strategy develops a pipeline of skilled workers to meet the needs of area employers.

Work-based training is employer-driven and provides grant subsidies to employers who hire individuals facing barriers to employment. These subsidies are provided when an employer agrees to hire the individual into unsubsidized employment after participation (***Federal Register Vol. 81, No. 161, Page 56149, Subpart F***). Work-based training can be an effective strategy to provide opportunities for participants and employers to find high-quality job opportunities and develop a high-quality workforce. On-the-job training, Registered Apprenticeship training, Pre-apprentice training, Transitional Jobs, Incumbent Worker training, work experience, and job shadowing are work-based training models that can be effectively used to target different jobseekers, workers, and employer needs.

I. Consolidated Business Grants (CBG):

The Consolidated Business Grant (CBG) provides funds to Local Workforce Development Boards (LWDBs) to sponsor work-based training programs that meet the needs of employers, workers, and trainees.

- Funding for PY 2018 has been set at \$3,000,000 for statewide use.
- The CBG is a one (1) year grant proposal, not a permanent allocation, approved by the State Workforce Board.
- The training cycle began on June 30, 2017 and end December 31, 2017.
- Based on circumstances, the training cycle has been extended through June 30, 2018.

The CBG funding allotment is divided equally among the 13 LWDAs across the State (***Workforce Services Guidance - Consolidated Business Grants***). CBG allows local areas the flexibility to use funding as needed. Grant funding may reimburse all or part of the costs to train eligible employees. Local areas should provide work-based training opportunities to employers and participants in their

area. **WIOA Section 134(a)(1)(B)(i)** states that funds reserved by the Governor, as described in WIOA Sections 128(a) and 133(a)(1), shall be used to carry out statewide employment and training activities. **WIOA Section 134(c)(3)(D)** includes work-based training in training services that may be provided to participants.

II. Instructions to LWDBs:

With the approval of the State Workforce Development Board (SWDB), TDLWD has established guidance instructing LWDBs on how to assist businesses in local areas to provide job seekers, including incumbent workers, an opportunity to enroll in work-based training programs. The pre-application for grants for training may be accessed online at <http://www.tn.gov/workforce/topic/grants-for-training>. In order to assist with monitoring, businesses approved for grants must complete a monthly online status report during the six (6) month duration of the program. These status reports can be located under the On-the-Job Training Grants, Incumbent Worker Training Grants, or Apprenticeship Training Grants links from the main Grants for Training page. The monthly status report can be found here: <http://www.tn.gov/workforce/article/iwt-status>.

LWDBs must ensure that the employers are using funds provided by the CBG. After a three month period from the date the funds have been made available, a review will be conducted by the State to determine the spending and obligation levels of each LWDA. If it is determined that an area has not obligated the eighty percent (80%) amount allocated to them, CBG monies will be recaptured and re-allocated.

III. Required LWDB Policy Implementation:

Each LWDB must develop a policy for work-based training that must address the following items:

- A.** Eligibility for Employees/Trainees
- B.** Requirements for Employed Participants
- C.** Employer Eligibility
- D.** In-Demand Occupation within the Labor Market (defined in **WIOA Section 3[23]**)
- E.** Data and Reporting
- F.** Priority of Service
- G.** Contract Requirements
- H.** Basic Requirements
- I.** Cost Per Participant
- J.** Monitoring and the Monitoring Procedure
- K.** Outreach Goals for Participants and Employers

This policy should contain a list of goals concerning the number of anticipated participants to be enrolled in work-based training(s) and the number of employers

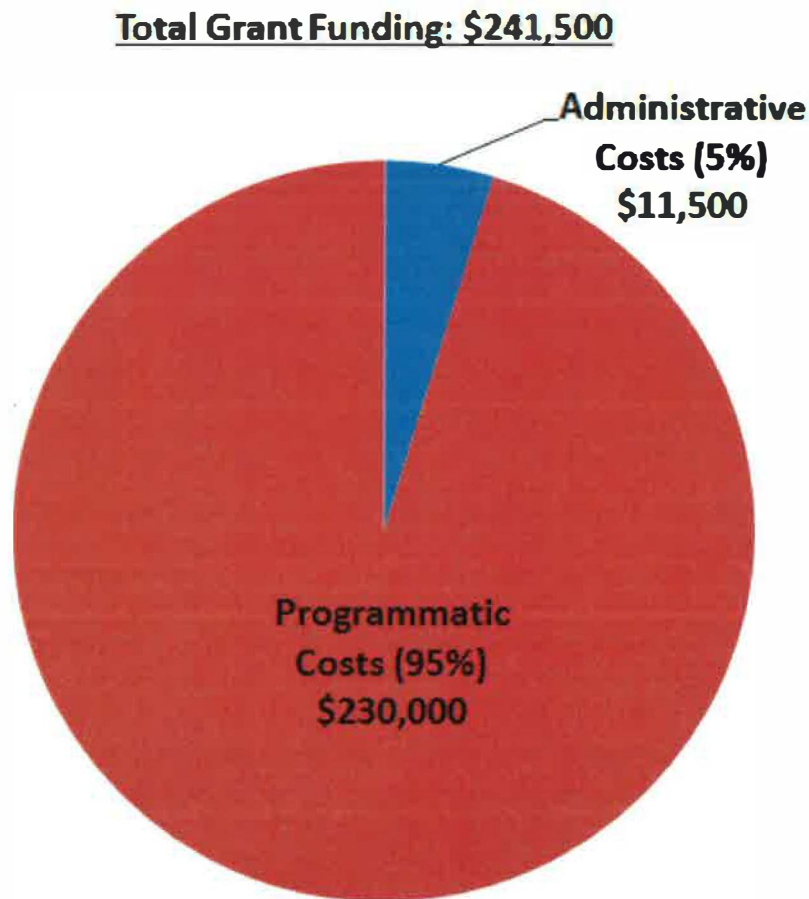
involved in the training during the next calendar year.

To stay consistent with the state policy for the recapture and re-allotment of formula funds, it has been determined that an "80 percent" rule will be enforced to determine the reallocation of monies.

- Local areas are required to obligate and/or expend eighty percent (80%) of the award by the end of the first ninety (90) days.
- Subsequent to the first ninety (90) days, local areas will be allowed to carry forward twenty percent (20%) of the award.
- Any unobligated funds in excess of the twenty percent (20%) carry forward will be subject to recapture.
- Administrative funds associated with this award will be reduced by the equivalent percentage amount of recaptured funds.

For example:

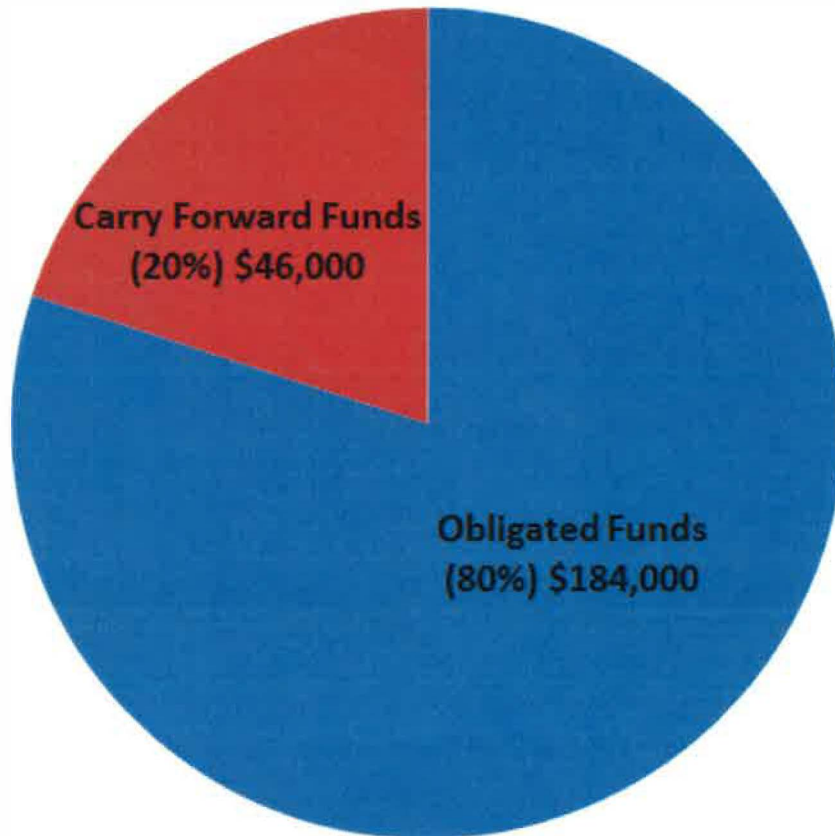
The first step after receiving a grant is to account for administrative and programmatic costs of delivering services:



Once the cost of administering programs has been removed from the total then the recipient must account for program costs that will be carried forward and costs that will be obligated within the required ninety (90) day period. Below is an example how funds could be allocated to avoid recapture:

Total Program Funding: \$230,000

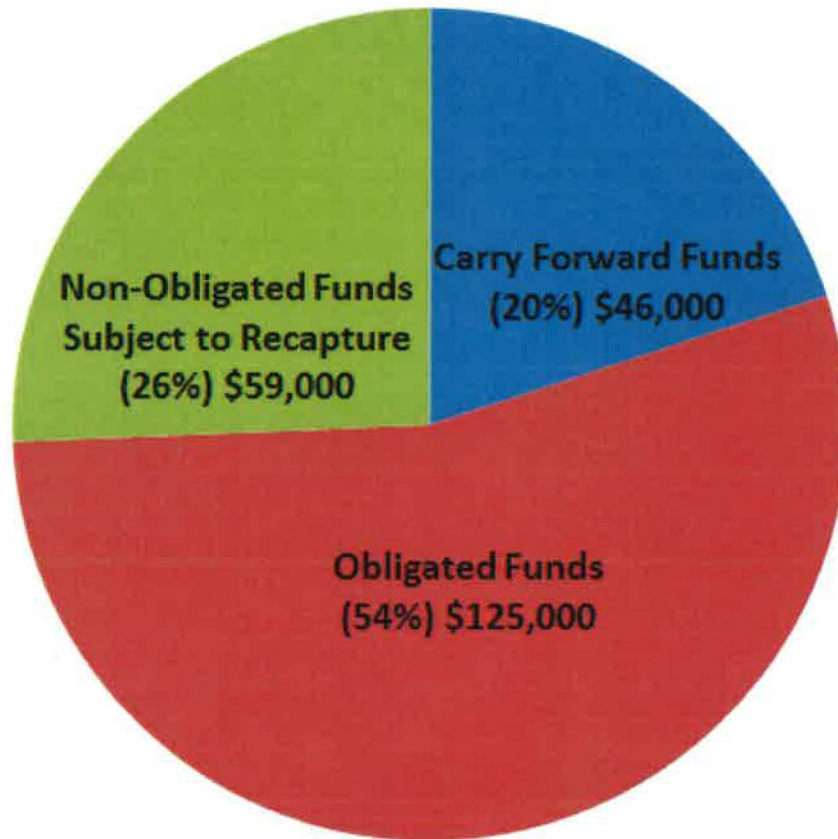
**This demonstrates all funds
obligated without recapture**



If funds are not obligated within the required ninety (90) day period then the balance of the "Obligated Funds" and the "Non-Obligated Funds" will be subject to recapture.

Total Program Funding: \$230,000

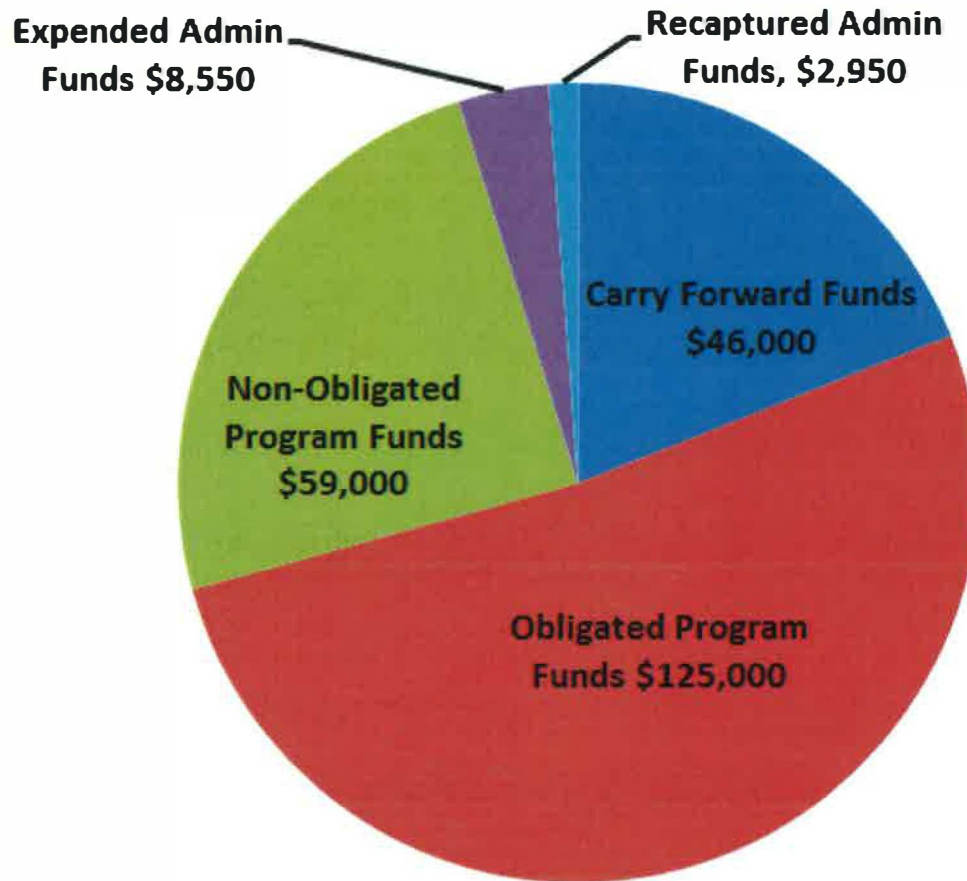
This demonstrates when non-obligated funds will be recaptured



Finally, the graph below demonstrates a breakdown of how much of the total grant — as demonstrated in the graph on page four (4) — will be recaptured in terms of administrative and programmatic funds:

Total Program Funding: \$241,500

This demonstrates when non-obligated funds will be recaptured



Funds will be requested through Grants4TN per published guidance on asking for additional monies. This guidance is provided through **Workforce Services Policy - Requesting Additional WIOA Funds**. This document can be found at: <http://tn.gov/workforce/article/wioa-technical-assistance>

IV. Types of Work-Based Training:

A. On-the-Job Training (OJT) – OJT is a form of work-based training provided to an eligible WIOA participant upon entry into employment and while engaged in paid work. OJTs are customized to address specific gaps in the trainee's knowledge or skills that are inhibiting their ability to perform assigned duties fully and adequately. Effective OJT programs ensure that participants are trained to perform specific job tasks. **WIOA Section 3(44)** states "The term 'on-the-job training' means training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;
2. Is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in **WIOA Section 134(c)(3)(H)(i)**, for the extraordinary costs of providing the training and additional supervision related to the training. State and local areas have the flexibility under WIOA to increase the reimbursement level to the employer up to seventy-five percent (75%) when determining the negotiated reimbursement.
3. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate."

Each LWDB must develop a policy outlining their OJT process that includes, but is not limited to, the following items:

1. How and when they apply reimbursement percent,
2. How to fund OJTs (formula funds can be used up to 20%),
3. How to promote and strategize the availability of OJTs, and
4. How OJTs will be connected to the local area career pathway

B. Registered Apprenticeship (RA):

Registered Apprenticeship is an "earn and learn" training model that combines structured learning with on-the-job training from an assigned mentor. The goal is to provide workers with advanced sets of skills that meet the specific needs of employers. Upon completion of a RA program, participants receive an industry-issued, postsecondary credential that certifies occupational proficiency; this credential is also portable (see **WIOA Section 122[a][2][A]**). Local areas may also include support services, in coordination with career and or training services, to participants in an RA program in accordance with supportive services consistent with **WIOA Section 134(d)(2)**, **TEGL 19-16**, and local policies.

C. Transitional Jobs:

Transitional jobs are time-limited, subsidized work opportunities and may be in the public, private, or nonprofit sectors. These jobs combined with comprehensive career and supportive services and are intended for individuals with barriers to employment, those who are chronically unemployed, or individuals with an inconsistent work history. Transitional jobs are used to establish a work history, demonstrate the individual's success in the workplace, and develop skills leading to entry into — and retention in — unsubsidized employment. Under **WIOA Section 134(d)(5)**, **LWDBs may use up to ten percent (10%) of their adult and dislocated worker funds to provide transitional jobs to individuals.** If local areas choose to use transitional jobs as

part of their service delivery strategy, they should adopt policies and identify employers (public, private, or nonprofit) that can provide quality experiences for individuals to eventually obtain unsubsidized employment. In addition, policies should include plans regarding the amount that reimbursements should be for the jobs, which supportive services should be included, and any limits on the duration of the transitional job.

D. Incumbent Worker Training (IWT):

The term “incumbent worker training” means training that is —

1. Designed to meet the specific requirements of an employer (including a group of employers); and
2. Conducted with a commitment by the employer to continue to employ an individual upon successful completion of training.

IWT may be used to help avert potential layoffs, or to increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers. Under **WIOA Section 134(d)(4)(A)(i)** of WIOA, LWDBs can use up to twenty percent (20%) of their adult and dislocated worker funds to provide for the Federal share of the cost of providing incumbent worker training.

E. Work Experience:

Work experience is defined as paid (subsidized) or unpaid work experience that is a planned, structured learning experience in a workplace for a limited period of time. This experience provides participants with opportunities for career exploration and skill development. Work experience must include academic and occupational education (**20 CFR 681.600[a-b]**). WIOA youth program participants may participate in more than one work experience program (i.e. summer employment, job shadowing, pre-apprenticeship) over the duration of their program participation (**20 CFR 681.600[c]**).

F. Pre-Apprenticeship:

Pre-apprenticeship is a program or set of strategies designed to prepare individuals to enter, and succeed in, registered apprenticeship programs. These programs have a documented partnership with at least one registered apprenticeship program sponsor. Pre-apprenticeship programs expand the participant’s career pathway opportunities by combining industry-based training and classroom instruction.

G. Job Shadowing:

Job shadowing is a work experience option where youth learn about a job by “walking through the work day as a shadow” to become competent workers. The job shadowing work experience is temporary, unpaid exposure to the workplace

in an occupational area of interest to the youth.

More information regarding the different types of work-based opportunities can be found at: https://ion.workforceegps.org/resources/2017/03/09/12/20/Work-Based_Learning_-_Adult_and_Dislocated_Worker_Programs?p=1

V. General Requirements for Participant Eligibility:

Work-based training opportunities must be identified as an appropriate activity for program participants on the Individual Employment Plan (IEP) or Individual Service Strategy (ISS). IEPs or ISSs, and/or case notes, will specify goals of the work-based training activity by identifying the purpose of the activity and expected outcomes.

VI. Employer Eligibility:

- A.** Employers participating in work-based training must be registered with Internal Revenue Service (IRS), have an account with Unemployment Insurance, and carry workers' compensation insurance (***Federal Register Vol. 81, No. 161, Page 56117***)
- B.** The employer must be financially solvent and have an adequate payroll record-keeping system that tracks hours worked, gross pay, deductions, and net pay.
- C.** The agreement between the LWDB and the employer will not displace any currently employed worker (***WIOA Section 181[b][2][A]***). Agreements will not be made with an employer who has terminated any regular employee, or otherwise reduced the workforce, in order to hire an OJT employee.
- D.** No contract may be written with a company that has relocated (for the first 120 days after beginning operations) if the move has resulted in any employee job losses at the original location (***WIOA Section 181[d][2]***). To verify that the relocation has not resulted in a loss of employment WIOA program staff and the OJT employer must complete a Standardized Pre-Award Review.
- E.** The employer must not currently be involved in a labor dispute or have workers currently in a layoff status. (***20 CFR 680.840***)
- F.** Employees may not work on construction, maintenance, or operation of any facility that is used for sectarian activities. (***WIOA Section 188[a][3]***)
- G.** The prospective employers must not meet the existing "pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits". (***20 CFR 680.700[b]***)

The Employer must not illegally discriminate in training or hiring practices because of race, color, sex, national origin, religion, disability, political beliefs or affiliation, or age (***WIOA Section 188[a][2]***).

VII. The Work-Based Contract:

Every work-based opportunity will include an agreement (contract) with the employer and a training plan for the employee. The contract must include the requirements of WIOA rules and regulations, the type of occupation and skills, the competencies to be

learned, and the length of training that will be provided.

VIII. Priority of Service for Work-Based Training:

Veterans and eligible spouses continue to receive priority of service for all job training programs funded by the US Department of Labor, which include WIOA programs. Thus, veterans will be given priority along with “recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient” as described in **WIOA Section 134[c][3][E]** which states: “With respect to funds allocated to a local area for adult employment and training activities under paragraph (2)(A) or (3) of Section 133(b), priority shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient for receipt of career services described in paragraph (2)(A)(xii) and training services. The appropriate LWDB and the Governor shall direct the One-Stop Operators in the local area with regard to making determinations related to such priority.”

IX. Data and Reporting:

LWDBs must properly record, in the Jobs4TN system, each work-based participant including all necessary information about that participant. Each LWDB must also ensure that all necessary information about the employer, participating in work-based training, be input in the same system. In addition, LWDBs are required to enter all monthly work-based training expenditures into Grants4TN (Dulles).

X. Monitoring:

Depending on the duration of the contracted training, any work-based training contracted must be monitored at least once by the LWDB. Monitoring will be based on the contract agreement between the employer and the LWDB. The employer must submit the following to the Fiscal Agent:

- A.** Invoice form;
- B.** Payroll records showing the gross wages paid to the trainee; and
- C.** Time records showing actual hours worked; the Fiscal Agent will reimburse employers for the regular hours a trainee actually worked.

Each LWDB must have a monitoring section in its OJT and Work-Based Training policies. OJT contracts, which each LWDB develops, should be written so as to coordinate with the following method of monitoring:

- A.** Monitoring at the local, State, and Federal level will include the Service Provider’s oversight of participant training and corresponding employer payroll records.
- B.** Onsite monitoring visits should:
 - 1.** Be conducted by the contract manager shortly after the trainee begins work, and
 - 2.** Include additional visits at appropriate intervals (determined by the length of the training plan).

- C. Effective monitoring also includes desk review of correspondence from the employer, including payment invoices and required documentation to support those invoices.
- D. Contract managers must regularly review each trainee's progress in meeting program and service strategy objectives. Such strategies should include the trainee's acquisition of basic/occupational skills and the adequacy of supportive services provided as related to work-based training. Any deviation from the work-based training contract should be dealt with and documented promptly.

XI. Requirements of LWDBs to Ensure Work-Based Alignment With Local Plans:

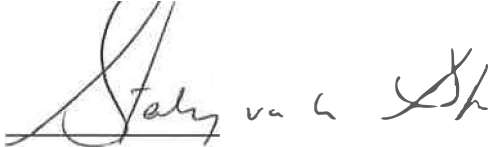
LWDBs must monitor and review their local plans on a regular basis to ensure that their work-based activities are aligned with, and are facilitating the progress of, the career pathways strategies outlined in their local plans.

Contact:

For any questions related to this guidance, please contact Nicholas Bishop - Director of Compliance and Policy for Workforce Services at Nicholas.Bishop@tn.gov

Effective Date: November 30, 2017

Duration: Until Further Notice

A handwritten signature in black ink, appearing to read "Sterling van der Spuy". The signature is written in a cursive, flowing style.

Sterling van der Spuy, Administrator